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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,931	09/19/2000	MEIR ALTER	03394.P003	5000

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EXAMINER

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/25/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

14

**Office Action Summary**

Application No.

09/530,931

Applicant(s)

ALTER, MEIR

Examiner

Alina N Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 7-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 20-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of claims 1-6 and 20-24 in Paper No. 8 is acknowledged.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 70 in figure 2. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 21-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear as to what Applicant is intended by an infrastructure "leaser" as described in the claims. Applicant is

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hereby requested to point out exactly where in the specification the limitations in claims 21-23 are described.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by *Using Netscape™* 2 by Mark Brown.

Regarding claim 1, Brown teaches a system for connecting to internet service providers via networking circuitry, the system comprising:

a user interface operative to display information regarding a plurality of internet service providers including quality of service information and to accept a user's choice of an internet service provider from among the plurality of internet service providers, thereby to define a user-selected internet service provider (page 144); and

a configuration operative to connect the user to the user-selected internet service provider by generating an on-the-fly configuration of the networking circuitry (page 141-142).

Regarding claim 2, Brown teaches a system according to claim 1 wherein the user interface comprises a web-based display (page 143, figure 6.12).

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Regarding claim 3, Brown teaches a system according to claim 1, wherein the user interface comprises a display of at least some of the plurality of Internet service providers (page 144).

Regarding claim 4, Brown teaches a system according to claim 1 and also comprising user identification apparatus operative to identify the user (page 144, step 10).

Regarding claim 5, Brown teaches a system according to claim 4 and wherein the user identification apparatus is operative to identify the user based on a telephone number by the user to establish a connection with the system (pages 142-143, steps 2-6).

Regarding claim 6, Brown teaches a method for connecting to internet service providers via networking circuitry, the method comprising:

displaying information regarding a plurality of internet of internet service providers including quality of service information (page 144);

accepting a user's choice of an internet service provider form among the plurality of internet service providers, thereby to define a user-selected internet service provider (page 144);  
and

connecting to the user to the user-selected internet service provider by generating an on-the-fly configuration of the network circuitry (page 141-142).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of USPN 5,951,644 issued to Creemer.

Regarding claim 20, Brown fails to explicitly teach a system according to claim 1 and also comprising an on-the-fly ISP performance monitor operative to monitor performance of at least one ISP on the fly and to supply at least one quality of service parameter to the user interface of display. Creemer teaches an ISP performance monitor operative to monitor performance of at least one ISP on the fly and supply at least one quality of service parameter to the user interface of display (col. 5, line 49 - col. 6, line 5). At the time the invention was made, one of ordinary skill in the art would have been motivated to combine the teachings of Brown and Creemer in order to keep track of the resource utilization at the ISP, thus maximizing the system's efficiency.

Regarding claim 21, Brown fails to explicitly teach a system according to claim 1 and also comprising an infrastructure leaser operative to lease network infrastructure to at least one internet service provider. Creemer teaches an infrastructure leaser operative to lease network infrastructure to at least one internet service provider (col. 1, lines 42-43, col. 8, lines 29-34). At

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the time the invention was made, one of ordinary skill in the art would have been motivated to employ an infrastructure leaser in order to allow the ISP to connect to the internet, therefore ensuring the system's functionality.

Regarding claim 22, Brown fails to explicitly teach a system according to claim 21, wherein the infrastructure leaser is operative to lease network infrastructure to at least one internet service provider from among said plurality of internet service providers. Creemer teaches the infrastructure leaser operative to lease network infrastructure to at least one internet service provider from among said plurality of internet service providers (col. 1, lines 42-43, col. 8, lines 29-34). At the time the invention was made, one of ordinary skill in the art would have been motivated to employ an infrastructure leaser in order to allow the ISP to connect to the internet, therefore ensuring the system's functionality.

Regarding claim 23, Brown fails to explicitly teach a system according to claim 21 and also comprising a resource utilization monitor operative to record information regarding occurrence of at least one of the following situations with respect to network infrastructure leased by at least one internet service provider: underutilization of the infrastructure leased by the at least one internet service provider; and overutilization of the infrastructure leased by the at least one internet service provider. Creemer teaches a resource utilization monitor operative to record information regarding occurrence of utilization of the infrastructure leased by the at least one internet service provider (col. 1, lines 42-43, col. 5, line 49 - col. 6, line 5, col. 8, lines 29-34). At the time the invention was made, one of ordinary skill in the art would have been

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motivated to combine the teachings of Brown and Creemer in order to keep track of the resource utilization at the ISP, thus maximizing the system's efficiency.

Regarding claim 24, Brown teaches a system according to claim 23 wherein said recording step is performed on the fly (pages 141-146).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. USPN 6,145,002 issued to Srivisan.
2. USPN 6,243,754 issued to Guerin et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N Boutah whose telephone number is (703) 305-5104. The examiner can normally be reached on Monday-Thursday (9:00 am-7:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*ANB*

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